



Report to the Auburn City Council

Action Item

6

Agenda Item No.

City Manager's Approval

To: Mayor and City Council
From: Robert Richardson, City Manager
Date: June 27, 2011
Subject: Employment Agreement for Interim Chief of Police

The Issue

Shall the City Council authorize the City Manager to execute the attached Employment Agreement for Interim Chief of Police services?

Conclusion and Recommendation

That the City Council authorize the City Manager to execute the attached Employment Agreement for Interim Chief of Police services.

Background

During the June 27, 2011 City Council meeting the Council will consider the approval of the FY12 City Budget as well as the appointment of John Ruffcorn as the City's next Chief of Police. Contained within the budget is the freezing of the Captain's position in the Police Department and the creation of a new Administrative Sergeant's position to provide administrative support to the Chief and Department. This new structure will save the City roughly \$120,000 per year, however, it will also place an additional span of control on these two positions.

Due to this new structure the City Manager is recommending that the City have the ability to retain an Interim Police Chief to fill in during periods when the Police Chief is unable or unavailable to perform his duties. Such circumstances could include, for example, absences for vacation or extended medical leave. Retiring Chief Harris has agreed to step into this role should the need arise during the term of this two year contract. The Interim Chief would be compensated at the same salary rate as the existing Chief, would not receive any benefits, and would be temporarily employed only during the terms designated by the City Manager.

Fiscal Impact

The Interim Police Chief would be compensated \$2,551.60 per week of employment with the City.

Attachments

Employment Agreement for Interim Chief of Police

EMPLOYMENT AGREEMENT FOR INTERIM CHIEF OF POLICE

This agreement is entered into between the City of Auburn, a municipal corporation (hereafter "City"), and Valerie Harris (hereafter "Employee"). City and Employee agree to the following terms and conditions regarding Employee's services to the City as Interim Chief of Police.

1. Effective Date

This agreement shall become effective when it has been executed by Employee and the City Manager. This agreement shall remain in effect until terminated by either party upon fifteen days' notice to the other, or until two years after the effective date of the agreement, whichever occurs first.

2. At-Will Nature of Employment

Employee agrees that this is a temporary, interim employment while the permanent Chief of Police is unable or unavailable to perform the duties of the position. Employee acknowledges, understands and accepts that no property interest or other right to continued employment is created by this agreement. Employee acknowledges, understands and accepts that, notwithstanding any rule, regulation, policy, handbook, procedure or practice of City to the contrary, she shall serve solely in an at-will capacity and at the pleasure of City. Employee further acknowledges, understands and accepts that she may be terminated at any time, with or without cause, at the sole discretion of the City, subject to the express notice provisions and other terms of this agreement, and notwithstanding any provision, regulation or personnel rule or policy to the contrary.

3. Duties; Hours of Work

A. Employee shall perform those functions and duties specified by State law, the Auburn Municipal Code, the ordinances and policies of the City, and by direction of the City Manager. Employee shall perform such duties in accordance with the highest professional and ethical standards of her profession. Employee shall not engage in any activity, which is, or which may become, incompatible with the position of Interim Chief of Police, as provided for by State law. During the term of this agreement, Employee shall be exclusively employed by the City, unless the City Manager grants prior written authorization otherwise, which authorization will not be unreasonably withheld.

B. During the period of employment under the terms of this agreement, Employee shall maintain a regular work schedule consistent with that approved for other Department Directors of the City. However, Employee's duties may involve expenditures of time in excess of eight hours per day, and may also include time outside normal office hours, such as attendance at City Council meetings. Employee shall not be entitled to additional compensation for such time.

C. Employee shall serve as Interim Chief of Police under the terms of this agreement when and as agreed by the parties. Employee is willing to serve in this capacity if and when the permanent Chief of Police is unable to perform his duties for any reason, until such time as determined by the City Manager. In each and every instance of such temporary employment, the terms of this agreement will apply.

4. Compensation; No Benefits

A. During the period of employment under the terms of this agreement, Employee shall receive a weekly salary of \$2551.60, payable in semi-monthly payments to be made at the same time as other management employees of the City are paid. City shall provide no other benefits or compensation to Employee except as expressly provided in this agreement. Employee shall be exempt from paid overtime compensation.

B. Without limiting the generality of paragraph "A." of this section, Employee specifically acknowledges that her employment by the City under this agreement is intended to be temporary. As a result, Employee acknowledges that Employee's employment under this agreement will not entitle Employee to accrue additional benefits under the California Public Employees Retirement System (PERS). Employee further acknowledges that this agreement may be terminated by the City at any time with or without cause. Upon such termination, Employee shall not be entitled to any severance or similar compensation.

C. City acknowledges that Employee is, or may soon be, a retired annuitant under PERS and, as such, is limited to 960 hours of employment by a PERS member, such as the City, in any 12-month period. City agrees to cooperate with Employee to allow her to maintain and protect her retired annuitant status.

5. Vehicle Allowance; City Vehicle

A. In recognition of the fact that Employee's normal duties may require frequent use of a vehicle, Employee shall be entitled to the use of a City vehicle. The use of the City vehicle is limited to business directly related to City activities. Employee may use the vehicle for travel between her home and City Hall and between her home and other locations at which she performs services for the City. Employee will make no personal use of a City vehicle nor allow any other person to do so.

6. Reimbursement of Costs

City recognizes that certain expenses of a non-personal and job-related nature may be incurred by Employee. City agrees to reimburse Employee for reasonable expenses which are authorized by the City, submitted to the City Manager for approval, and which are supported by expense receipts, statements or personal affidavits, and audit

thereof in like manner as other demands against the City. Such expenses shall include the cost of any fidelity or other bonds required by law for an Acting or Interim, Police Chief.

7. Indemnification

City shall defend, hold harmless and indemnify Employee against any claim, demand, judgment, or action of any type or kind arising within the course and scope of Employee's employment to the extent required by Government Code Sections 825 and 995.

8. Non-Assignability

Employee shall not assign or transfer this agreement, or any interest or obligation imposed by it, without first obtaining the written consent of City.

9. Avoidance of Conflicts

Employee shall avoid all conflicts of interest as provided by law, including, but not limited to, Government Code section 87300 *et seq.* and Government Code Section 1090 *et seq.*

10. Compliance with Law

Employee agrees to comply with any and all applicable provisions of federal, state and local law, including provisions of the Auburn Municipal Code and regulations or orders established by resolution or ordinance of the City Council, as may be applicable to the performance of services pursuant to this agreement.

11. Other Terms and Conditions of Employment

A. The City Council may from time to time fix other terms and conditions of employment relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provision of this agreement, the Auburn Municipal Code, the ordinances and policies of the City, or other applicable law.

B. The provisions of the City's Personnel Rules and Regulations and the ordinances and policies of the City (collectively, "Rules") shall apply to Employee, except that if the specific provisions of this agreement conflict with the Rules, the terms of this agreement shall prevail. Without limiting the generality of the exception noted in the previous sentence, however, no provision of the Rules or this agreement shall confer upon Employee a property right in her employment or a right to be discharged only upon cause. Employee is an at-will employee serving at the pleasure of the City and may be dismissed at any time with or without cause.

12. General Provisions

A. The laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this agreement and shall also govern the interpretation of this agreement.

B. This agreement constitutes the entire agreement between the parties. City and Employee hereby acknowledge that they have neither made nor accepted any other promise or obligation with respect to the subject matter of this agreement.

C. If any provision or any portion of this agreement is held to be unconstitutional, invalid or unenforceable, the remainder of the agreement shall be deemed severable and shall not be affected and shall remain in full force and effect.

D. Any notice to City pursuant to this agreement shall be given in writing, either by personal service or by registered or certified mail, postage prepaid, addressed as follows:

City Manager
City of Auburn
1225 Lincoln Way, Room 9
Auburn, CA 95603-5004

With a courtesy copy to:

Michael G. Colantuono, Esq.
City Attorney
11364 Pleasant Valley Road
Penn Valley, CA 95946-9000.

Any notice to Employee shall be given in a like manner, and, if mailed, shall be addressed to Employee at the address then shown in City's personnel records. For the purpose of determining compliance with any time limit stated in this agreement, a notice shall be deemed to have duly given (a) on the date of delivery, if served personally, or (b) on the second calendar day after mailing, if mailed.

E. A waiver of any of the terms and conditions of this agreement shall not be construed as a general waiver and either party may enforce any term or condition of this agreement with or without notice to the other notwithstanding any prior waiver of that term or condition.

13. Amendments

This represents the entire agreement between the parties. Amendments to this agreement may be made at such times as approved by the City and Employee and shall be in writing.

CITY

Dated: _____

Robert Richardson, City Manager

Approved as to form:

Michael G. Colantuono, City Attorney

Dated: _____

Attest:

Joseph Labrie, City Clerk

Dated: _____

EMPLOYEE

Dated:

Valerie Harris

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